

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KENNY HILL,

PLAINTIFF

v.

JOHN LAMANNA, ET AL.,

DEFENDANTS

Civil Action No. 05-160E

Judge McLaughlin  
Magistrate Judge Baxter

**DEFENDANTS' ANSWER**

AND NOW, come the Defendants, John LaManna, Marty Sapko, Deborah Forsyth, and Stephen Housler (hereinafter collectively referred to as "Defendants"), by and through their attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, Michael Colville, Assistant United States Attorney for said district, and Douglas S. Goldring, Assistant General Counsel for Federal Prison Industries, Inc, and Answer the Plaintiff's Second Amended Complaint as follows:

**PARTIES**

1. ADMITTED.
2. ADMITTED that Defendant John J. LaManna was, at all times relevant to this action, the Chief Executive Officer (Warden) for FCI McKean. It is DENIED that he is still employed in that capacity.
3. ADMITTED that Defendant Deborah Forsyth was, at all times relevant to this action, the Superintendent of Industries for the UNICOR facility located in FCI McKean. It is

DENIED that she is still employed in that capacity.

4. ADMITTED that Defendant Stephen Housler is the Safety Manager at FCI McKean, and that he acted in as an agent of the Federal Bureau of Prisons and the United States of America. Otherwise, DENIED
5. ADMITTED.

#### **JURISDICTION**

6. The averments in this paragraph state legal conclusions to which no response is required. To the extent a response is required, however, the averments in this paragraph are DENIED.

#### **ADMINISTRATIVE REMEDIES**

7. The averments in this paragraph state legal conclusions to which no response is required. To the extent a response is required, however, the averments in this paragraph are DENIED.

#### **FACTS**

8. ADMITTED.
9. ADMITTED.
10. ADMITTED that Plaintiff worked in the UNICOR factory at FCI McKean which, at that time, engaged in various aspects of the manufacture of furniture products. Otherwise, DENIED.
11. Upon reasonable investigation, Defendants are without information sufficient to either admit or deny the averments in this paragraph.
12. Upon reasonable investigation, Defendants are without information sufficient to either

admit or deny the averments in this paragraph.

13. The averments in this paragraph state legal conclusions to which no response is required.

To the extent a response is required, however, the averments in this paragraph are  
DENIED.

14. The averments in this paragraph state legal conclusions to which no response is required.

To the extent a response is required, however, the averments in this paragraph are  
DENIED.

15. Denied.

16. ADMITTED that some inmates used brooms to clean the machinery. Otherwise,  
DENIED.

17. DENIED.

18. DENIED.

19. DENIED.

20. DENIED.

21. ADMITTED that respirators were available. DENIED that defendants refused to provide  
them to Plaintiff, or other workers.

22. DENIED.

23. DENIED.

24. The averments in this paragraph state legal conclusions to which no response is required.

To the extent a response is required, however, the averments in this paragraph are  
DENIED.

25. DENIED.

26. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are  
DENIED.

27. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are  
DENIED.

**COUNT I**

28. Defendants incorporate by reference their answers to paragraphs 1-27.

29. ADMITTED.

30. ADMITTED.

31. DENIED.

32. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are  
DENIED.

33. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are  
DENIED.

34. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are  
DENIED.

35. The averments in this paragraph state legal conclusions to which no response is required.  
To the extent a response is required, however, the averments in this paragraph are

DENIED.

**FIRST AFFIRMATIVE DEFENSE**

Defendants are entitled to Qualified Immunity.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiff has not satisfied the exhaustion requirement of the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a).

**THIRD AFFIRMATIVE DEFENSE**

Plaintiff has not stated a claim of any Constitutional violation for which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b).

**FOURTH AFFIRMATIVE DEFENSE**

To the extent any of the Defendants are named in their official capacities, they are entitled to sovereign immunity.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff failed to satisfy the physical injury requirement of the Prison Litigation Reform Act, 42 U.S.C. § 1997e.

**SEVENTH AFFIRMATIVE DEFENSE**

Defendant LaManna is entitled to be dismissed from this action based upon their lack of personal involvement and the doctrine of *respondeat superior*.

WHEREFORE, Defendants pray this Court dismiss Plaintiff's Complaint with prejudice.

Respectfully Submitted,

MARY BETH BUCHANAN  
United States Attorney

/s/ Michael C. Colville  
MICHAEL C. COLVILLE  
Assistant United States Attorney  
Western District of Pennsylvania  
U.S. Post Office and Courthouse  
700 Grant Street, Suite 400  
Pittsburgh, PA 15219

OF COUNSEL:

Douglas S. Goldring  
Assistant General Counsel  
Federal Prison Industries (UNICOR)  
400 First Street, NW, 8<sup>th</sup> Floor  
Washington, DC 20534

**CERTIFICATE OF SERVICE**

I hereby certify that on this 2<sup>nd</sup> day of February, 2007, I have served a copy of the within  
DEFENDANTS' ANSWER by either electronic filing and/or first-class mail, upon the following:

Richard A. Lanzillo, Esquire  
Knox McLaughlin Gornall & Sennett, P.C.  
120 West Tenth Street  
Erie, PA 16501-1461

/s/ Michael C. Colville  
MICHAEL C. COLVILLE  
Assistant U.S. Attorney